

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

J.D. ENQUIST,

Plaintiff,

v.

HAROLD CLARKE, *et al.*,

Defendants.

Case No. C07-5069 FDB/KLS

REPORT AND
RECOMMENDATION

NOTED:
April 20, 2007

This civil rights action been referred to United States Magistrate Judge Karen L. Strombom pursuant to Title 28 U.S.C. §§ 636(b)(1) and Local MJR 3 and 4. The Court is advised by Plaintiff that he no longer wishes to pursue this action.

DISCUSSION

On February 14, 2007, Plaintiff filed his application to proceed *in forma pauperis* and a proposed civil rights complaint. (Dkt. # 1). On February 20, 2007, the Clerk of the Court sent a letter to Plaintiff, advising of various deficiencies in Plaintiff's application to proceed *in forma pauperis*. (Dkt. # 2). In response, Plaintiff sent a handwritten letter advising the Clerk that although he received mail from the Court, he is unable to read standard size print and most handwriting and is prevented from filing because prison officials have taken his eyeglasses. (Dkt. # 3). Plaintiff asks that his case be returned to him. (*Id.*).

The Court interprets Plaintiff's letter as a motion to voluntarily dismiss his action pursuant to

1 Rule 41(a)(1) of the Federal Rules of Civil Procedure.

2 Rule 41(a)(1) of the Federal Rules of Civil Procedure provides, in pertinent part:

3 [A]n action may be dismissed by the plaintiff without order of court (i) by
4 filing a notice of dismissal at any time before service by the adverse party of an
answer or of a motion for summary judgment, whichever first occurs

5
6 **CONCLUSION**

7 The Court should dismiss this action as plaintiff has voluntarily requested dismissal. No
8 answer or motion for summary judgment has been filed by any defendant. As Plaintiff's request to
9 have his filings returned to him is unusual and none of the documents filed with the Clerk's office are
10 originals, the undersigned does not recommend that the Clerk return the documents to Plaintiff. A
11 proposed order accompanies this Report and Recommendation.

12 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure,
13 the parties shall have ten (10) days from service of this Report and Recommendation to file written
14 objections. *See also* Fed. R.Civ.P. 6. Failure to file objections will result in a waiver of those
15 objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating the time
16 limit imposed by Rule 72(b), the clerk is directed to set the matter for consideration on **April 20,**
17 **2007**, as noted in the caption.

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19 DATED this 27th day of March, 2007.

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23 Karen L. Strombom
24 United States Magistrate Judge
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